

REMARKS

Claims 1-4 are pending in the present application. Claims 1 and 3 have been amended. Claims 1 and 3 are independent claims. The Examiner is respectfully requested to reconsider the outstanding rejections in view of the above amendments and the following remarks.

Rejection Under 35 U.S.C. § 103

Claims 1-4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0100967 to Robotham et al. (hereafter “Robotham”) in view of Applicant’s admitted prior art (hereafter “the APA”). This rejection, insofar as it pertains to the presently pending claims, is respectfully traversed.

In page 4 of the Office Action, the Examiner admits that Robotham does not teach the following features:

- defining an earliest permitted moment, at which a packet can be forwarded, as a greatest value of VTS values of the shaping groups, to which the traffic flow represented by the packet to be forwarded belongs; and
- as a result of forwarding the packet, the VTS values of the same shaping groups are updated, in which the VTS value of an individual shaping group expresses the earliest permitted moment at which a packet belonging to that shaping group can be forwarded without breaking restrictions of speed properties of that shaping group.

Thus, the Examiner relies on the APA to teach the aforementioned features (pages 4-5 of the Office Action).

However, in order to assert that the APA teaches the aforementioned subject matter of the independent claims, the Examiner would have to interpret the claimed “shaping groups” as reading on the CIR and PIR speed property restrictions in the APA. This is because the APA selects between VTS values of the CIR and PIR speed property restrictions of a single traffic flow (see equation 3), while the invention recited in the independent claims selects between VTS values of multiple shaping groups to which a traffic flow under consideration belongs.

As such, Applicant points out that the independent claims have been amended to recite, “*each shaping group includes at least one of the traffic flows and at least one of the shaping groups includes at least two of the traffic flows*” (emphasis added). Such amendment clearly distinguishes over APA as interpreted by the Examiner.

Specifically, the APA does not teach that any speed property restriction would be related to more than one traffic flow. Instead, the APA only deals with a situation in which there is only one traffic flow. See substitute specification (clean copy) of 2/12/009, page 2, lines 28-29, which states: “*Figure 1 shows one way, according to the prior art, of monitoring and limiting the speed properties of a traffic flow*” (emphasis added). Since the CIR and PIR speed property restrictions mentioned in the APA only correspond to a single traffic flow, they cannot be interpreted to be the same as the shaping groups defined in the amended independent claims, at least one of which includes at least two of the traffic flows.

In view of the foregoing, Robotham and the APA, taken separately or in obvious combination, fail to teach or suggest the aforementioned claim features. Therefore, Applicant respectfully submits that this § 103 rejection has been obviated.

At least for the reasons set forth above, Applicants respectfully submit that independent claims 1 and 3 are in condition for allowance. Accordingly, claims 2 and 4 are allowable at least by virtue of their dependency on claims 1 and 3. Therefore, the Examiner is respectfully requested to reconsider and withdraw this rejection.

Conclusion

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider the outstanding rejections and issue a Notice of Allowance in the present application.

Should the Examiner believe that any outstanding matters remain in the present application, the Examiner is respectfully requested to contact Jason W. Rhodes (Reg. No.

Application No. 10/575,710
Amendment dated September 28, 2009
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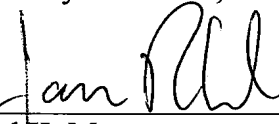
Docket No.: 0365-0674PUS1

47,305) at the telephone number of the undersigned to discuss the present application in an effort to expedite prosecution.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: September 28, 2009

Respectfully submitted,

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